

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department -Khammam District- Revision Petition filed by Sri Desabouna Thirupathaiah S/o Venkaiah R/o.Ganugapadu village Chandrugonda Mandal, Khammam District against the orders of Agent to Government, Khammam and the Collector, Khammam District in CMA No.60/97 dt.5.12.2000 in respect of land admeasuring Ac.5.00 gts situated in Sy.No.133 at Ganugapadu (V), Chandrgonda (M), Khammam District - Dismissed - Orders – Issued

TRIBAL WELFARE (LTR)DEPARTMENT

G.O.Ms.No. 26

Dated: 17-05-2017
Read the following:-

- 1) Revision Petition filed by Sri Desabouna Thirupathaiah S/o.Venkaiah R/o.Ganugapadu village Chandrugonda Mandal, Khammam District dated 01.07.2005.
- 2) Govt.Memo.No.5973/TW-LTR-2/2005-1, dt 16.07.2005.
- 3) From the Agent to Government and the District Collector, Khammam Rc.No.F2/CMA-60/97, dt.05.12.2005.

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ORDER

In the reference 1st read above, Sri Desabouna Thirupathaiah S/o.Venkaiah R/o Ganugapadu (V), Chandrugonda Mandal, Khammam District against the orders of Agent to Government, Khammam District in CMA No.60/1997 dt.5.12.2000 with regard to land admeasuring Ac.5.00 gts situated in Sy.No.133 at Ganugapadu (V), Chandrgonda (M), Khammam District.

2. In the reference 2nd read above the Agent to Government & District Collector, Khammam was requested to furnish Para Wise Remarks and connected case records and in the reference 3rd read above the Agent to Government & District Collector, Khammam District has furnished Para Wise Remarks and connected case records.

3. The Brief contents of the case are as follows:

- The case is initiated on a report of the Special Deputy Tahsildar (TW), Palvanha, dt: 24.10.1996.
- The Special Dy. Collector (TW), after due verification of the records has observed that the transfer of immovable property belonging to the Non-Tribal (petitioner herein) was made to the Non-Tribal in contravention of the sub-section-I of the Section - 3 as laid in the A.P.(S.A) LTR I of 1959 read with regulation I of 1970 after commencement of the said Regulation and as such it is null and void.
- In view of the above, the Special Deputy Collector (TW), Palvanha ordered ejectment of the respondent or whomever is in possession of the immovable property and directed that the immovable property in question be taken possession by the Mandal Revenue Officer, Chandrugonda under cover of panchanam and assign the same to the eligible tribals as per rules inforce.
- Against the above order, Sri Desaboina Thiruapathaiah has filed an appeal before the Agent to Govt.,Khammam. The Agent to Govt., after due verification of records has observed that the transaction took place between Non-Tribals. On verification of revenue records, it is evident that, the Sy.No.133, consists of an extent of Ac. 12-32 and Sri Kondapalli Vasudevarao, S/o. Satyanarayana is the pattadar for all the years; 1968-69, 1969-70, 1970-71, 1971-72, 1972-73 and also 1973-74. The name of Sri Kondapalli Vasudeva Rao is also existing for all the above years, in occupation column for an extent of Ac. 7-32 gts. in the same Sy.Nos. whereas the name of "Thirupathaiah" is existing in occupants column for the years 1968-69, 1969-70 and 1970-71 only that too with different link and different handwritings. From the entries available in the pahanies, it is clear that the entry of the name of the appellant made in the Revenue Records is a subsequent development to come up on record with malicious intention.
- The appellant has filed a xerox copy of a sada sale deed which is said to be executed on 14.04.1967. But the appellant failed to produce original sale agreement at any point of time during the trial of the case. The sada sale deed is not duly stamped and registered U/B 17 (D) of Registration Act, which cannot be admitted as evidence as observed by the Hon'ble High Court of A.P., in CRP

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Mastan Reddy. without producing any corroborative evidence to substantiate to prove his legal right over the suit schedule land, it cannot be decided that the appellant is a rightful owner of the land under dispute.

- In view of the above, the Agent to Govt., has issued orders upholding the orders of the Lower court & directed the Mandal Revenue Officer, Chandrugonda to take over the possession of the land in question & assign the same to the eligible tribes as per rules in force.
- 4 The remarks of the Agent to Government, Khammam on the revision petition are as under:
- The Revision Petitioner has failed to produce the original sale agreement dt. 14.04.1967. The authority has verified the pahanies, and on verification it is found that the Sy.No.133 consists an extent of Acs.12-32 gts, and Sri Kondapalli Vasudeva Rao, is the pattadar for all the years from 1968-69 to 1973-74, and his name is also existing for all the above years in occupation column for an extent of Acs. 7-32 gts, in the same Sy.Nos. But whereas Thirupathaiah name is existing in occupant column for the years 1968-69, 1969-70 and 1970-71 only that too with different ink and different hand writings.
 - So it is clear from the above said records, that the records were tampered and subsequently written with different ink in that case. The version of Revision Petitioner was not believable and the said tampered records are also not believable.
 - The Revision Petitioner has never filed any original sale agreement said to have been executed in his favour, in support of the alleged sale. He did not produce any supported documents like pahanies. After verifying the pahanies also it is found that they have tampered and they have no value in the eye of law. The sada sale deed is not duly stamped U/s 17(B) of Registration Act, cannot be admitted as evidence, as observed by the Hon'ble High Court of A.P., in CRP. No. 1087/ 96, dated: 10.08.1998, in the case of Bangaru Rama Tulisamma V/s Yada Masthan Reddy without producing any corroborative evidence, the alleged Photostat sale deed is not admissible and it has no value in the eye of law. The another contention is that no Tribal interest is involved in this case. The presumption is that the entire land in the schedule area belongs to Tribals unless the contrary is proved. The regulation prohibits the transfer of immovable property between two Non-Tribals after commencement of the regulation 1 of 1959 read with Regulation 1 of 70. Therefore the contention of the Revision Petitioners is not correct. The Revision Petitioner failed to prove his rightful possession and title over the suit land and accordingly decided the case.
 - On perusal of the material available in the file, it may be observed that the Revision Petitioner has failed to produce the original sale agreement dt. 14.4.1967. As per pahanies, the Sy.No.133 consists an ext. of Act. 12.31 gts & Sri Kondapalle Vasudevarao, is the pattadar for all the years from 1968-69 to 1973-74 & his name is also existing for all the above years in occupation column for an ext. of Acs. 7.32 gts, in the same Sy.Nos. But, Thirupataiah name is existing in occupant column for the years 1968-69, 1969-70 & 1970-71 only that too with different ink and different hand writings. So, it is clear, that the records were tampered and subsequently written with different ink in that case.
 - The Revision Petition has never filed any original sale agreement said to have been executed in his favour in support documents like pahanies.
 - It was held proved, that the transfer of immovable property belonging to Non-Tribal was made to another Non-Tribal in contravention of sub-sec(1) of sec.3 as laid down in AP(SA) LTR I of 1959 read with amended by 1 of 1970, after convincement of the said regulation & as such it is null & void. Further the appellant was failed to establish his legal right over the suit schedule land.
5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Agent to Govt., Khammam it is observed that;

- The Revision Petitioner's main plea is that he purchased the land to an extent of Ac.5-00 in Sy.No.133 in Ganugupadu (V), Chandrugonda (M) through a sad sale deed dt:14.04.1967 and that he has been in continuous position from that date and hence the transfer is not hit by Act 1 of 59 read with Act 1 of 70.

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- The claimed sale deed is on plain paper and it is only an agreement concluded on white paper. Hence it cannot be treated as valid sale agreement/sale deed. Further the name of Sri Desabouna Thirupathaiah, the revision petitioner is entered in pahani records from 1968-69 to 70-71 only at possessor of the land where as possessor of the land where as Sri Kondapalli Vasudeva Rao S/o Satyanarayana Rao is shown as Pattedar. Simply entry in possessor's column cannot confer any rights as Pattedar of the land.
- Further the Agent to Government, Khammam has also observed in his order dt:05.12.2000 that the appellant is not having any documentary proof to prove his right as owner of the land expect the one agreement on white paper.
- Further the sale transaction claimed is also from a non-tribe to another non-tribe. In case he has purchased the land in question which is located in schedule area before the implementation of the act he should have legally got it registered in his name and got ownership right on the land. Hence the claim of revision petitioner is not accepted.

6. Government after careful examination of the matter hereby dismiss the Revision Petition filed by Sri Desabouna Thirupathaiah S/o Venkaiah R/o Ganugapadu village Chandrugonda Mandal, Khammam District now Bhadradi Kothagudem District and uphold the orders of the Agent to Government and District Collector, Khammam District in CMA No.60/1997 Dt:05.12.2000.

7. The Dist. Collector, Bhadradi Kothagudem District, (Erstwhile Khammam District) is directed to take necessary action for ejectment accordingly. The original case records received in the reference 3rd read above are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA,
SECRETARY TO GOVERNMENT

To

Sri Desabouna Thirupathaiah S/o Venkaiah
R/o Ganugapadu village Chandrugonda Mandal,
Khammam District now Bhadradi Kothagudem District
The District Collector, Bhadradi Kothagudem District,
(Erstwhile Khammam District) (with original records)

Copy to :

The Project Officer, ITDA and Additional Agent to Government,
Bhadrachalam, Bhadradi Kothagudem District(w.e.)
The Spl. Deputy Collector(TW), Bhadrachalam,
Now Bhadradi Kothagudem District for information and necessary action.
The Tahsildar, Chandrugonda Mandal, Now Bhadradi Kothagudem District
for necessary action.
Sri Vinaya Kumar, TLK Sharma, Advocates,
H.No.1-3-183/40/68/C/2, Gandhinagar, Hyderabad.
P.S to M(TW)/P.S. to Prl.Secretary(TW)
SF/SC

// FORWARDED:: BY ORDER//

SECTION OFFICER